

JPA File No.: 06-087 I
AG Contract No.: KR07-0518TRN
Project No.: 090 CH 289
Project: Update Kartchner Caverns
Corridor Development Plan
Section: SR 90 from I-10 to MP 301.6
TRACS No.: H 7090 K1D
Budget Source Item No.: 73307,
\$10,000; 74407, \$3,000

INTERGOVERNMENTAL AGREEMENT

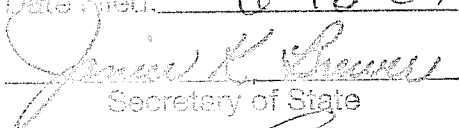
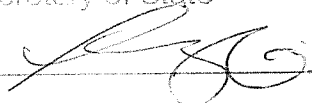
BETWEEN
THE STATE OF ARIZONA
AND
CITY OF BENSON

THIS AGREEMENT is entered into this date June 18th, 2007, pursuant to the Arizona Revised Statutes § 11-951 through 11-954, as amended, between the STATE OF ARIZONA, acting by and through its DEPARTMENT OF TRANSPORTATION (the "State") and the CITY OF BENSON, acting by and through its MAYOR and CITY COUNCIL (the "City"). The State and the City are collectively referred to as "Parties".

I. RECITALS

1. The State is empowered by Arizona Revised Statutes § 28-401 to enter into this Agreement and has delegated to the undersigned the authority to execute this Agreement on behalf of the State.
2. The City is empowered by Arizona Revised Statutes § 48-572 to enter into this Agreement and has by resolution, a copy of which is attached hereto and made a part hereof, resolved to enter into this Agreement, and has authorized the undersigned to execute this Agreement on behalf of the City.
3. The Kartchner Caverns Corridor Development Plan (Plan) was initiated in 1993. This plan studied SR 90 from I-10 south 12 miles to MP 301.6. The City and State agree to mutually fund a current study (Study) to update the 1993 Plan, hereinafter referred to as the "Project." The results of this Project's efforts will serve as a guiding document to control and manage access by developers and property owners along SR 90 and to identify new east-west routes to SR 80 and to Benson. The City will administer said Project.

THEREFORE, in consideration of the mutual covenants expressed herein, it is agreed as follows:

NO. 28985
Filed with the Secretary of State
Date Filed: 6-18-07

Secretary of State
By: 

II. SCOPE OF WORK

1. The State shall:

a. Upon execution of this Agreement, the State agrees to assist the City of Benson in funding an update of the SR 90 Kartchner Caverns Corridor Development Plan. Obtain copies of original Plan for subsequent review.

b. Coordinate with the City on the Project, providing comments as needed after review of original Plan. Be responsible for any Consultant claims for extra compensation attributable to the State.

c. Upon receipt of the completed Study and an approved invoice from the City, remit the State's share of the Project to the City, an amount not to exceed \$13,000.00.

d. Amend this Agreement, should it be mutually agreed upon the scope of the Study will change or be expanded, prompting additional funds to be paid by the State in excess of the initial \$13,000.00.

2. The City shall:

a. Upon execution of this Agreement, retain and contract with an Arizona registered professional engineering firm (Consultant) to conduct this corridor development plan update. The Consultant will prepare all requisite technical studies. The City will administer the Consultant contract and make payments to the Consultant.

b. Provide the State with original copies of the final SR 90 Corridor Development Plan.

c. Coordinate with the State regarding any Project reviews, incorporating any State comments as necessary during preparation of the final Study documents.

d. Be responsible for any Consultant claims for extra compensation attributable to the City.

e. Upon receipt of the completed Study and an invoice from the Consultant, notify the State to remit the State's share of the Project, an amount not to exceed \$13,000.00. Should changes to the scope of the Study be mutually agreed upon by both Parties and prompting the need for additional funding, coordinate with the State to amend this Agreement.

III. MISCELLANEOUS PROVISIONS

1. This Agreement shall remain in force and effect until completion and acceptance of final Study documents by the Parties. Should the City cancel the Project, prior to the State signing a Consultant contract, the State will be reimbursed in full by the City for the State's share of the Project.

2. The Parties to this Agreement agree that the State shall be indemnified and held harmless by the City for the vicarious liability of the State as a result of entering into this Agreement. Each party to this contract is responsible for its own negligence.

3. This Agreement shall become effective upon filing with the Secretary of State.

4. This Agreement may be cancelled in accordance with Arizona Revised Statutes § 38-511.

5. The provisions of Arizona Revised Statutes § 35-214 are applicable to this Agreement.

6. In the event of any controversy, which may arise out of this Agreement, the parties hereto agree to abide by required arbitration as is set forth for public works contracts in Arizona Revised Statutes § 12-1518.

7. All notices or demands upon any party to this Agreement shall be in writing and shall be delivered in person or sent by mail, addressed as follows:

Arizona Department of Transportation
Joint Project Administration
205 S. 17th Avenue, Mail Drop 616E
Phoenix, Arizona 85007
(602) 712-7525
(602) 712-7424 Fax

City of Benson
Attn: City Manager
PO Box 2223
Benson, Arizona 85602
(520) 586-8834
(520) 586-3375

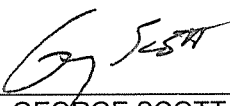
8. This Agreement is subject to all applicable provisions of the Americans with Disability Act (Public Law 101-336, 42 U.S.C. 12101-12213) and all applicable Federal regulations under the Act, including 28 CFR Parts 35 and 36. The parties to this Agreement shall comply with Executive Order Number 99-4 issued by the Governor of the State of Arizona and incorporated herein by reference regarding "Non-Discrimination".

9. Non-Availability of Funds: Every payment obligation of the State under this Agreement is conditioned upon the availability of funds appropriated or allocated for the payment of such obligations. If funds are not allocated and available for the continuance of this Agreement, this Agreement may be terminated by the State at the end of the period for which the funds are available. No liability shall accrue to the State in the event this provision is exercised, and the State shall not be obligated or liable for any future payments as a result of termination under this paragraph.

10. In accordance with Arizona Revised Statutes § 11-952 (D) attached hereto and incorporated herein is the written determination of each party's legal counsel and that the parties are authorized under the laws of this State to enter into this Agreement and that the Agreement is in proper form.

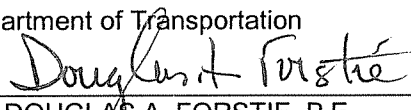
IN WITNESS WHEREOF, the Parties have executed this Agreement the day and year first above written.

CITY OF BENSON

By 

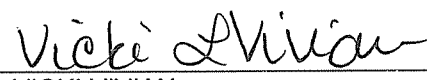
GEORGE SCOTT
Mayor

STATE OF ARIZONA

Department of Transportation
By 

DOUGLAS A. FORSTIE, P.E.
Deputy State Engineer, Operations

ATTEST:

By 

VICKI VIVIAN
City Clerk

G:\City of Benson, Kartchner Caverns Corridor Development Plan Update
Draft 2 Jan 10, 2007 ghc
Revised Jan. 16, 2007 ghc
Final Draft 4/19/07 ghc
Revised Final 5/15/07 ghc

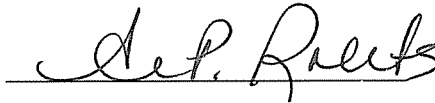
JPA-087

ATTORNEY APPROVAL FORM FOR THE CITY OF BENSON

I have reviewed the above referenced Intergovernmental Agreement between the State of Arizona, acting by and through its DEPARTMENT OF TRANSPORTATION, and the CITY, an Agreement among public agencies which, has been reviewed pursuant to A.R.S. § 11-951 through § 11-954 and declare this Agreement to be in proper form and within the powers and authority granted to the City under the laws of the State of Arizona.

No opinion is expressed as to the authority of the State to enter into this Agreement.

DATED this 29th day of May, 2007.


City Attorney

RESOLUTION NO. 18-2007

A RESOLUTION OF THE MAYOR AND CITY COUNCIL OF BENSON, ARIZONA, APPROVING THE INTERGOVERNMENTAL AGREEMENT BETWEEN THE CITY OF BENSON AND THE STATE OF ARIZONA THROUGH ITS DEPARTMENT OF TRANSPORTATION PROVIDING FOR FUNDING TO UPDATE THE KARTCHNER CAVERNS CORRIDOR PLAN INITIATED IN 1993.

WHEREAS, the City of Benson wishes to update the 1993 Kartchner Caverns Corridor Development Plan; and,

WHEREAS, The Kartchner Caverns Corridor Development Plan is the guiding document that controls and manages vehicular traffic access by developers and property owners along State Route 90, as well as, identifies new east-west routes to State Route 80 and Benson; and,

WHEREAS, The State of Arizona, through its Department of Transportation, has agreed to fund a portion of the costs of updating the Kartchner Caverns Corridor Development Plan.

NOW, THEREFORE BE IT RESOLVED BY THE MAYOR AND CITY COUNCIL that by passage of this Resolution, the Mayor of the City of Benson is hereby authorized to execute the Intergovernmental Agreement between the City of Benson and the State of Arizona regarding funding for updating the Kartchner Caverns Corridor Development Plan initiated in 1993.

PASSED AND ADOPTED BY THE MAYOR AND CITY COUNCIL OF BENSON, ARIZONA, this 29th day of May, 2007.



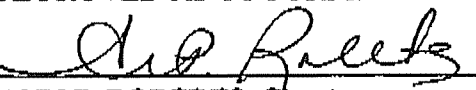
GEORGE SCOTT, Mayor

ATTEST:




VICKI L. VIVIAN, City Clerk

APPROVED AS TO FORM:



ANN P. ROBERTS, City Attorney

<p>TERRY GODDARD Attorney General</p>	<p> OFFICE OF THE ATTORNEY GENERAL STATE OF ARIZONA</p>	<p>CIVIL DIVISION TRANSPORTATION SECTION Writer's Direct Line: 602.542.8855 Facsimile: 602.542.3646 E-mail: Susan Davis@azag.gov</p>
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INTERGOVERNMENTAL AGREEMENT
DETERMINATION

A.G. Contract No. KR07-0518TRN (JPA 06-087-I), an Agreement between public agencies, i.e., The State of Arizona and City of Benson, has been reviewed pursuant to A.R.S. § 11-952, as amended, by the Undersigned Assistant Attorney General who has determined that it is in the proper form and is within the powers and authority granted to the State of Arizona.

No opinion is expressed as to the authority of the remaining Parties, other than the State or its agencies, to enter into said Agreement.

DATED: June 11, 2007

TERRY GODDARD
Attorney General


SUSAN E. DAVIS
Assistant Attorney General
Transportation Section

SED:mjf:13394
Attachment